medical services only under § 435.139 is considered to be Medicaid-eligible and receiving Medicaid for purposes of this provision. With respect to whether the mother remains (or would remain if pregnant) eligible for Medicaid after the birth of the child, the State must determine whether a 5-year bar qualified alien would remain eligible for emergency services under § 435.139. In determining whether the woman would remain eligible for these services, the State must consider whether the woman would remain eligible if pregnant. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility.

(c) The agency must provide Medicaid eligibility in the same manner described in paragraph (a) of this section to a child born to an otherwise-eligible non-qualified alien woman so long as the woman has filed a complete Medicaid application (other than providing a social security number or demonstrating immigration status), including but not limited to meeting residency, income and resource requirements, has been determined eligible, is receiving Medicaid on the date of the child's birth, and remains (or would remain if pregnant) Medicaid eligible. All standard Medicaid application procedures apply, including timely determination of eligibility and adequate notice of the agency's decision concerning eligibility. A non-qualified alien receiving emergency medical services only under § 435.139 is considered to be Medicaid-eligible and receiving Medicaid for purposes of this provision. With respect to whether the mother remains (or would remain if pregnant) eligible for Medicaid after the birth of the child, the State must determine whether a non-qualified alien would remain eligible for emergency services under § 435.139. In determining whether the woman would remain eligible for these services, the State must consider whether the woman would remain eligible if pregnant. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility.

(d) A redetermination of eligibility must be completed on behalf of the children described in this provision in accordance with the procedures at § 435.916. At that time, the State must collect documentary evidence of citizenship and identity as required under § 435.406.

[72 FR 38690, July 13, 2007]

MANDATORY COVERAGE OF QUALIFIED FAMILY MEMBERS

§ 435.119 Qualified family members.

(a) *Definition.* A *qualified family member* is any member of a family, including pregnant women and children eligible for Medicaid under § 435.116 of this subpart, who would be receiving AFDC cash benefits on the basis of the unemployment of the principal wage earner under section 407 of the Act had the State not chosen to place time limits on those benefits as permitted under section 407(b)(2)(B)(i) of the Act.

(b) *State plan requirement.* The State plan must provide that the State makes Medicaid available to any individual who meets the definition of ''qualified family member'' as specified in paragraph (a) of this section.

(c) *Applicability.* The provisions in this section are applicable in the 50 States and the District of Columbia from October 1, 1990, through September 30, 1998. The provisions are applicable in American Samoa from October 1, 1992, through September 30, 1998.

[58 FR 48614, Sept. 17, 1993]

MANDATORY COVERAGE OF THE AGED, BLIND, AND DISABLED

§ 435.120 Individuals receiving SSI.

Except as allowed under § 435.121, the agency must provide Medicaid to aged, blind, and disabled individuals or couples who are receiving or are deemed to be receiving SSI. This includes individuals who are—

(a) Receiving SSI pending a final determination of blindness or disability;

(b) Receiving SSI under an agreement with the Social Security Administration to dispose of resources that exceed the SSI dollar limits on resources; or

(c) Receiving benefits under section 1619(a) of the Act or in section 1619(b) status (blind individuals or those with disabling impairments whose income equals or exceeds a specific Supplemental Security Income limit). (Regulations at 20 CFR 416.260 through 416.269 contain requirements governing determinations of eligibility under this provision.) For purposes of this paragraph (c), this mandatory categorically needy group of individuals includes those qualified severely impaired individuals defined in section 1905(q) of the Act.

[55 FR 33705, Aug. 17, 1990]

§435.121 Individuals in States using more restrictive requirements for Medicaid than the SSI requirements.

(a) *Basic eligibility group requirements.* (1) If the agency does not provide Medicaid under §435.120 to aged, blind, and disabled individuals who are SSI recipients, the agency must provide Medicaid to aged, blind, and disabled individuals who meet eligibility requirements that are specified in this section.

(2) Except to the extent provided in paragraph (a)(3) of this section, the agency may elect to apply more restrictive eligibility requirements to the aged, blind, and disabled that are more restrictive than those of the SSI program. The more restrictive requirements may be no more restrictive than those requirements contained in the State's Medicaid plan in effect on January 1, 1972. If any of the State's 1972 Medicaid plan requirements were more liberal than of the SSI program, the State must use the SSI requirement instead of the more liberal requirements, except to the extent the State elects to use more liberal criteria under §435.601.

(3) The agency must not apply a more restrictive requirement under the provisions of paragraph (a)(2) of this section if:

(i) The requirement conflicts with the requirements of section 1924 of the Act, which governs the eligibility and post-eligibility treatment of income and resources of institutionalized individuals with community spouses;

(ii) The requirement conflicts with a more liberal requirement which the agency has elected to use under §435.601; or

(iii) The more restrictive requirement conflicts with a more liberal requirement the State has elected to use under §435.234(c) in determining eligibility for State supplementary payments.

(b) *Mandatory coverage.* If the agency chooses to apply more restrictive requirements than SSI to aged, blind, or disabled individuals, it must provide Medicaid to:

(1) Individuals who meet the requirements of section 1619(b)(3) of the Act even though they may not continue to meet the requirements of this section; and

(2) Qualified Medicare beneficiaries described in section 1905(p) of the Act and qualified working disabled individuals described in section 1905(s) of the Act without consideration of the more restrictive eligibility requirements specified in this section.

(3) Individuals who:

(i) Qualify for benefits under section 1619(a) or are in eligibility status under section 1619(b)(1) of the Act as determined by SSA; and

(ii) Were eligible for Medicaid under the more restrictive criteria in the State's approved Medicaid plan in the reference month—the month immediately preceding the first month in which they became eligible under section 1619(a) or (b)(1) of the Act. ''Were eligible for Medicaid'' means that individuals were issued Medicaid cards by the State for the reference month. Under this provision, the reference month for determining Medicaid eligibility for all individuals under section 1619 of the Act is the month immediately preceding the first month of the most recent period of eligibility under section 1619 of the Act.

(c) *Group composition.* The agency may apply more restrictive requirements only to the aged, to the blind, to the disabled, or to any combination of these groups. For example, the agency may apply more restrictive requirements to the aged and disabled under this provision and provide Medicaid to all blind individuals who are SSI recipients.